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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,306	07/29/2002	Bernard Krone	F-7257	7951

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EXAMINER

TORRES, ALICIA M

ART UNIT PAPER NUMBER

3671

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/018,306	Applicant(s) KRONE ET AL.	
	Examiner Alicia M Torres	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7 and 12 is/are rejected.
- 7) ☒ Claim(s) 4-11 and 13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Morgan et al., hereafter Morgan.

In regards to claim 1, Morgan discloses a harvesting apparatus (1) for harvesting stalked crops cultivated in a standardized manner with a standard distance between rows, comprising:

At least one link chain including a tight side (forward facing side) which is moved, in use, transversely to a driving direction of the harvesting apparatus (1), the at least one link chain including a plurality of chain elements (unnumbered, elements with holding means 156, shown in figures 7 and 8) articulated to one another and each including holding means (156) for holding cut stalks of the stalked crops, an extent of each of the plurality of chain elements of the link chain as measured in a revolving direction of the link chain corresponding approximately to a whole number divider of the standard distance between rows, as per claim 1; and

Wherein the standard distance between rows corresponds to approximately four times the extent of each of the plurality of chain elements, as per claim 2; and

Wherein each of the chain elements defines a uniform function body including the holding means (156) provided as an integral part of the uniform function body, as per claim 12.

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3. In regards to claims 3 and 5, Morgan discloses a harvesting apparatus (1) for stalked plants, comprising:

At least one link chain (unnumbered) including a tight side which is moved, in use, transversely to a driving direction of the harvesting apparatus (1), the at least one link chain including a plurality of chain elements (unnumbered, element with holding means 156, shown in figures 7 and 8) articulated to one another, each of the chain elements defining a uniform function body including at least one of outwardly pointing cutting means and holding means (156) for holding cut stalks of the stalked crops provided as an integral part of the uniform body, as per claim 3; and

Wherein each said function body adjoins an adjacent one directly, as per claim 5.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan in view of Olinger.

The device is disclosed as applied to claim 3 above. However, Morgan fails to disclose wherein the plurality of chain elements are connected with one another over axle shafts at front and rear ends in a revolving direction of the link chain, and bodies of the axle of the axle shaft are embraced in a sealing manner by sleeve bodies.

Olinger discloses a similar chain with chain elements connected with one another over axle shafts (62) at front and rear ends in a revolving direction of the link chain, and bodies of the axle of the axle shaft (62) are embraced in a sealing manner by sleeve bodies (56).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the sealed connection of Olinger on the device of Moran in order to reduce the incursion of debris into the mechanism.

Response to Arguments

6. In regards to applicant's arguments concerning claim 1, that Morgan is silent regarding any relationship whatsoever between an extent of a chain element and a standard distance between rows, applicant has given no specifics as to what a "standardized row" is. Morgan appears to be "standard" in that a typical machine, not a special machine, is disclosed. Morgan is silent regarding the subject, however does not teach away from it.

Further, the non-patent literature article "Agronomy Advice" cited by the examiner, teaches that row spacing has been dictated by the size of the power unit used to plant, cultivate and harvest corn. In this case, a "standardized row" would be tailored to the size of the machine, and not the other way around, as applicant appears to be claiming.

7. Applicant's arguments with respect to claim 3 have been considered but are moot in view of the new ground(s) of rejection. Please see the new 35 U.S.C. 102(b) rejection of Morgan et al., wherein the Morgan reference has been interpreted differently.

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Allowable Subject Matter

8. Claims 4-11 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

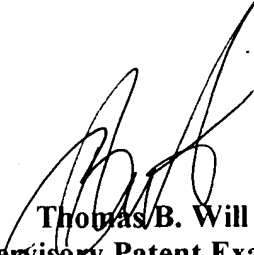
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
April 15, 2004